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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
VS.) CR NO. 03-10383-RGS
)
JULIO FRANCO)
JOSE RAFAEL SANTIAGO and)
DOMINGO VEGA)
Defendants.)

STIPULATION OF FACTS FOR MOTIONS TO SUPPRESS

Now come the parties in the above numbered indictment and stipulate as to the following facts for purposes of motions to suppress evidence.

1. Drug Enforcement Agency ("DEA") Special Agent Mark Tully has the general qualifications, training and experience, as set forth in his Complaint Affidavit, dated November 10, 2003 ("Complaint Affidavit").
2. Agent Tully was involved in the present investigation since early October of 2003.
3. Agent Tully would have testified as to the intercepted calls and his interpretations of them as set forth in his Complaint Affidavit and Tully would have testified as to the facts set forth in his Opposition Affidavit in support of the government's opposition to the motions to suppress, dated June 1, 2004. The parties agree that Tully would have testified as such at a suppression hearing and that these statements from the affidavits are incorporated into this Stipulation.
4. On November 7, 2003, Agent Tully submitted an application for a warrant to conduct electronic surveillance on a pre-paid mobile cellular telephone, which though not listed to any specific individual, was frequently used by a male known as "Ramon" and other drug dealers. "Ramon" was subsequently identified as defendant Julio Franco, and Julio Franco was subsequently determined to be an alias for Ramon Mercedes Ortiz. The application was approved by Judge Douglas O. Woodlock and activated on the same date.
5. On the same day, shortly after activating the device, in the second call monitored, the caller identified himself as "Mingo" and stated that the "Mexicans" were coming tomorrow,

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- and when asked how much was coming stated "six hands".
6. "Mingo" was subsequently identified as the Domingo Vega of Hyde Park, Massachusetts.
 7. Later on the same day, another conversation between "Ramon" and "Mingo" was monitored, which Agent Tully would testify was narcotics related, as more fully set forth in his Complaint Affidavit, Paragraph 7.
 8. Further calls were monitored as set forth more fully in the Complaint Affidavit, Paragraph 7. For example, "Ramon" states that "nobody has seen me touching the car or anything like that" and later "Mingo" states "Yes. You have to be careful." and "I want to bring Nancy not make anybody suspicious". Based on intercepted calls until that point, on November 7, 2003, surveillance was begun in Lynn at 11 Kings Hill Drive and vehicles were observed including a blue Audi 1994 model, utilized by Jose Raphael Santiago and a black Dodge Intrepid 1996 model.
 9. On November 8, 2003, several calls were monitored, which Agent Tully interpreted as narcotic related conversation, as set forth more fully in his Complaint Affidavit, Paragraph 8.
 10. On Sunday, November 9, 2003, several more calls were monitored, which Agent Tully would testify were narcotics related, as set forth in his Complaint Affidavit, Paragraphs 9-11. For example, "Mingo" stated that "these people are ready" and told "Ramon" to "get the money and come right down."
 11. Based on information gained from the intercepted calls as set forth in Agent Tully's Complaint Affidavit, surveillance was also conducted on Ramon who was observed entering a black Volkswagen and driving towards Boston from Lynn.
 12. Based on the information gained from the intercepted calls, surveillance agents, including Massachusetts State Trooper Jim Bazzinotti was looking for the black Volkswagen. At approximately 9:00 P.M., Trooper Bazzinotti stopped a black Volkswagen with defendant Vega ("Mingo") and Mark Osorio on Southbound Rte. 95 near the Rhode Island line. However, the Trooper did not know this was the correct target vehicle until checking with DEA. Defendant Vega was operating the vehicle. Mark Osorio was located in the front passenger seat. Osorio has not been indicted in this case.
 13. The Trooper stated that Vega had made an illegal lane change. The Trooper had the parties produce identification, used his flashlight to look at what was in plain view in the vehicle, found nothing, and released the parties.
 14. Law enforcement then surveilled the Volkswagen to Providence and calls continued to be monitored as set forth more fully in the Tully Complaint Affidavit, Paragraphs 14-15. For example, "Raffi" (defendant Jose Raphael Santiago) called "Ramon" (defendant Julio Franco) and "Raffi" stated that he

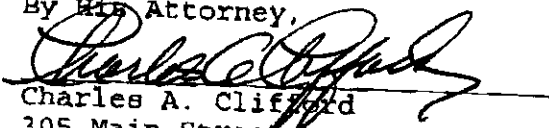
had met with "Mingo" (Vega) and that "something weird" had happened and "we had to leave". In a call between "Ramon" and "Mingo" stated that the area was full of "policemen" and that "we got out of there".

15. Based on the intercepted calls, including those set forth in the Tully Complaint Affidavit, the Volkswagen was stopped in Lincoln, Rhode Island. The Volkswagen was operated by Santiago ("Raffi"). Based on the information learned during these intercepted calls, Santiago was arrested. A quantity of cash was found in the automobile during a search incident to arrest. This Volkswagen was the same vehicle that had been stopped approximately an hour earlier.
16. Defendant Vega and Mark Osario were stopped and arrested on Rte. 95 Northbound in the Blue 1994 Audi in Mansfield, Massachusetts based on the information learned during the intercepted calls. A search of the vehicle revealed no contraband or cash. Items, including what Agent Tully would testify were drug ledgers, were seized from Mr. Vega's person. The Audi was found to have been properly registered and not stolen.

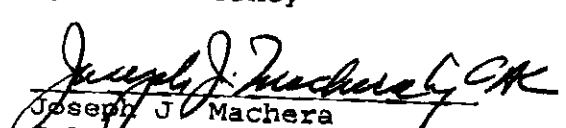
Respectfully Submitted

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